



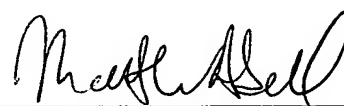
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Response Under 37 C.F.R. §1.116
Expedited Procedure
Examining Group 3643

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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For: Apparatus and Method for) Mail Stop AF, Commissioner for Patents,
Reproducing and Filling Sausage Meat) P.O. Box 1450, Alexandria, Virginia,
Group Art Unit: 3643) 22313-1450, on: March 10, 2005
Examiner: Thomas Price)
)
) 
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) Reg. No.: 47,377

**AMENDMENT AND RESPONSE
TO FINAL OFFICE ACTION**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This paper is submitted in response to the final Office Action having a mail date of January 12, 2005. Please consider the remarks as follows:

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 5 of this paper.

Listing of claims:

1. (currently amended) An apparatus for producing and filling sausage meat, comprising:
 - a producing station (29) that produces for producing sausage meat to be filled from raw material between a deactivation stage and a full-load driven producing stage,
 - a filling station (12a, 12b, 12c) for filling the sausage meat produced by said producing station,
 - wherein said filling station is provided downstream of said producing station,
 - a means (30a, 30b, 30c) for determining the amount of sausage meat needed by said filling station (12a, 12b, 12c), and
 - a control means (15) which controls the sausage meat output of said sausage-meat producing station (29) on the basis of the determined amount of needed sausage meat between said deactivation stage and said full-load driven producing stage in at least one further intermediate stage in which the sausage meat output rate of said producing station (29) lies between the rates of a deactivated producing station and a full-load driven producing station.
2. (previously presented) The apparatus according to claim 1, wherein said control means (15) is operable such that the sausage meat output of said sausage-meat producing station (29) is controlled substantially continuously on the basis of the amount of sausage meat needed by said filling station (12a, 12b, 12c).
3. (previously presented) The apparatus according to claim 1, and at least one reservoir (9) for storing sausage meat is provided between said sausage-meat producing station (29) and said filling station (12a, 12b, 12c).
4. (previously presented) The apparatus according to claim 1, and a means (30a, 30b, 30c) for determining the amount of sausage meat needed is provided such that the sausage meat throughput of said sausage-meat filling station (12a, 12b, 12c) is sensed for determining the amount of sausage meat needed.

5. (previously presented) The apparatus according to claim 1, and at least one pipe (10) for transporting sausage meat is provided between said sausage-meat producing station (29) and said filling station (12a, 12b, 12c).

6. (previously presented) The apparatus according to claim 1, wherein said sausage-meat producing station (29) comprises a grinder (23) whose throughput is controlled by said control means (15).

7. (previously presented) The apparatus according to claim 1, wherein said sausage-meat producing station comprises at least one mixer (4) whose sausage meat throughput is controlled by said control means (15).

8. (previously presented) The apparatus according to claim 1, wherein said sausage-meat producing station (29) comprises at least one evacuator (6, 24) whose sausage meat throughput is controlled by said control means (15).

9. (previously presented) The apparatus according to claim 1, wherein said sausage-meat producing station (29) comprises at least one pump (4, 6, 24) whose sausage meat throughput is controlled by said controlled means (15).

10. (previously presented) The apparatus according to claim 1, wherein said sausage-meat producing station (29) comprises an emulsifier (25) whose sausage meat throughput is controlled by said control means (15).

11. (previously presented) The apparatus according to claim 1, wherein said sausage-meat producing station (29) comprises a pre-chopper (2) whose throughput is controlled by said control means (15).

12. (previously presented) The apparatus according to claim 1, wherein a plurality of said filling stations (12a, 12b, 12c) are provided.

13. (previously presented) The apparatus according to claim 12, wherein at least one reservoir (13a, 13b, 13c) is provided for each said filling station (12a, 12b, 12c).

14. (previously presented) The apparatus according to claim 12 or 13, wherein for each said filling station (12a, 12b, 12c) at least one means (30a, 30b, 30c) is provided for determining the amount of sausage meat needed by the respective filling station (12a, 12b, 12c).

15. (previously presented) The apparatus according to claim 1, wherein the sausage meat produced is transported under exclusion of air and under pressure at least in part from said sausage-meat-producing station (29) into said filling station (12a, 12b, 12c).

REMARKS

Claims 1-22 were originally filed in this application. In response to a restriction requirement, the claims 1-15 were elected for prosecution and claims 16-22 were withdrawn. In response to the final Office Action, claim 1 has been amended and, accordingly, claims 1-15 are pending and at issue.

Rejection under 35 U.S.C. §102(b)

Claims 1-5 and 10-15 were rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,947,809 (*Schliesser*). The applicant respectfully submits that *Schliesser* fails to disclose each and every element of the rejected claims and, therefore, fails to anticipate the rejected claims.¹

Claim 1 as amended recites “[a]n apparatus for producing and filling sausage meat, comprising a producing station (29) for producing sausage meat to be filled from raw material ... a filling station ... for filling the sausage meat produced by said producing station, wherein said filling station is provided downstream of said producing station, a means ... for determining the amount of sausage meat needed by said filling station ... and a control means (15) which controls the sausage meat output of said sausage-meat producing station.” *Schliesser* fails to disclose such elements.

Schliesser discloses a filler with a control unit that controls the speed of a length-adjusting device. The filler is controlled such that the length-adjusting device corresponds to an expected output of the filling tube. The control unit disclosed in *Schliesser*, therefore, only controls parameters between the filler and the length-adjusting device and not between any other device or apparatus. In the present application, however, the control means controls the sausage meat output of the producing station, which is dependent on the sausage meat needed by the filling station. *Schliesser* simply fails to teach or suggest all of limitations of claim 1 as amended.

Furthermore, the applicant respectfully disagree with the examiner’s assertion on page 3 of the final Office Action, wherein the Office Action indicates that “the actual linking process can broadly read on the claim language of ‘producing station’”, and “the sausage meat producing station broadly reads on the linking forming process.” First, as amended,

¹ "Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Rockwell International Corp. v. United States*, 47 USPQ 2d 1027 (Fed. Cir. 1998).

claim 1 recites "a producing station (29) that produces sausage meat to be filled from raw material." As such, the producing station produces sausage meat from raw material, whereas the linking process disclosed in *Schliesser* utilizes a filling machine having a feeding hopper for sausage meat, not raw materials. (Column 3, lines 57-61). Second, the producing station (29) and the filling station are separate elements, with the filling station being downstream of the producing station. As a result, the linking process can not be read on the claim language of producing station, nor can the sausage meat producing station be broadly read on the linking forming process.

Accordingly, the §102 rejection of claim 1 and its dependent claims 2-5 and 10-15 should be withdrawn.

Rejection under 35 U.S.C. §103(a)

Claims 5-9 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over *Schliesser*. Claims 5-9, however, each depend from independent claim 1, which includes one or more limitations not taught or suggested by *Schliesser* as discussed above.

As a result, *Schliesser* fails to teach or suggest all of the limitations recited in claims 5-9. Therefore, a *prima facie* case of obviousness can not be established in rejecting these dependent claims.² Accordingly, the § 103 rejection of claims 5-9 should be withdrawn.


In light of the foregoing, issuance of a notice of allowance is respectfully solicited. Should the examiner have any questions, he is respectfully invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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March 10, 2005

By:



Matthias Abrell
Reg. No.: 47,377

² "To establish a *prima facie* case of obviousness, ... there must be some suggestion or motivation ... to modify the references or to combine reference teachings ... [, and] the prior art reference (or references when combined) must teach or suggest 'all' the claimed limitations". (Internal quotations added). See MPEP § 2142.